UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ERIC JOHNSON,

Plaintiff,

- against -

FLEXCO LLC and ASTON TAYLOR, JR. P/K/A FUNKMASTER FLEX,

Defendants.

Civil Action No. 15-cv-1356 (SAS)

DECLARATION OF ALEXANDER R. MALBIN IN SUPPORT OF REQUEST FOR CLERK'S CERTIFICATE OF DEFAULT FOR DEFENDANT ASTON TAYLOR JR. P/K/A FUNKMASTER FLEX

I, ALEXANDER R. MALBIN, hereby declare and state:

1. I am a member of the law firm Ferdinand IP, LLC, counsel of record for Plaintiff Eric Johnson ("Plaintiff") in the above-captioned action. I am a New York State bar member in good standing. I am admitted to practice before the United States District Court for the Southern District of New York. Pursuant to Fed. R. Civ. P. 55(a) and Rule 55.1 of the Local Rules of the United States District Court for the Southern District of New York, I submit this Declaration in support of Plaintiff's Request for Clerk's Certificate of Default for Defendant Aston Taylor Jr. p/k/a Funkmaster Flex ("Taylor").

2. This is an action seeking damages, costs, attorney's fees, and injunctive relief against Defendants arising from Defendants' unauthorized uses of Plaintiff's copyrighted photographs on Defendants' website located at the domain name www.inflexwetrust.com, in willful infringement of Plaintiff's U.S. Copyright Registration Nos. VA 1-910-544 and VA 1-929-530.

3. Jurisdiction of the subject matter of this action is based upon 17 U.S.C. § 501 and 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Taylor because Taylor is a resident of the State of New York, because Taylor engages in continuous and systematic business activities in New York County, and because Taylor purposely directs substantial activities at residents of New York County by means of its website located at the domain name www.inflexwetrust.com (*see Penguin Group (USA) Inc. v. Am. Buddha*, 640 F.3d 497 [2d Cir. 2011]).

5. This action was commenced with the filing of a civil Complaint with the Court on September 23, 2015 (*see* Docket Entry No. 1).

6. An Amended Complaint (including its Exhibits) and request for issuance of a Summons as to the Amended Complaint for Taylor were filed with the Court on January 8, 2016 (*see* Docket Entry Nos. 16, 18).

7. The Court issued an electronic Summons as to the Amended Complaint for Taylor on January 11, 2016 (*see* Docket Entry No. 19).

8. On February 2, 2016, Plaintiff's agent for service of process completed service of copies of the Amended Complaint (including its Exhibits), Summons, and other case-initiating papers on Taylor, after four attempts to complete service via personal service at Taylor's last known residence of 4 Faith Lane, Ardsley, New York 10502, by first, on January 30, 2016, personally affixing such documents in a conspicuous place on the door to the entrance of Taylor's last known residence of 4 Faith Lane, Ardsley, New York 10502, and then, on February 2, 2016, enclosing true copies of such documents in a securely sealed and postpaid wrapper with the words "PERSONAL

and CONFIDENTIAL" written on the same, and not indicating on the outside that it is from an attorney or concerns a legal matter, and depositing the same into an official depository maintained by the Government of the United States, City and State of New York, addressed as follows: Aston Taylor Jr., p/k/a Funkmaster Flex, 4 Faith Lane, Ardsley, New York 10502. (The due diligence of Plaintiff's agent for service of process to complete service via personal service at Taylor's last known residence is described in detail in the Proof of Service for service upon Taylor [*see* Docket Entry No. 21]).

9. The Proof of Service for such service of process upon Taylor was filed with the Court on February 4, 2016 (*see* Docket Entry No. 21).

10. Consequently, an answer or other response to the Amended Complaint was due from Taylor by February 23, 2016 (*see* Docket Entry No. 21).

11. More than 21 days have elapsed since service of the Summons, Amended Complaint, and other case-initiating papers upon Taylor. To date, Taylor has failed to appear, plead, or otherwise defend this action.

8. Taylor (i.e., the party against whom a notation of default is sought) is not an infant, in the military, or an incompetent person.

9. No part of the judgment sought against Taylor by Plaintiff in this action has been paid to Plaintiff by Taylor.

To the best of my knowledge after reasonable inquiry, I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
February 24, 2016

/s/ Alexander R. Malbin

ALEXANDER R. MALBIN (AM 9385)